

**S.D. #02-07  
Lincoln Park, NJ**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

**HISHI PLASTICS, U.S.A., INC.**  
Employer

**and**

**Case 22-RC-12310**

**UNITED ELECTRICAL, RADIO AND  
MACHINE WORKERS OF AMERICA  
(UE), LOCAL 404**  
Petitioner

**SUPPLEMENTAL DECISION ON REMAND**

**I. BACKGROUND:**

On March 27, 2003, I issued a Decision and Direction of Election in this matter, ordering that an election be held among the production and maintenance workers of Hishi Plastics, U.S.A. Inc. (the Employer). I included in that production and maintenance unit (the Unit) six individuals whom the Employer contended were supervisors.<sup>1</sup> I also included in the Unit four quality control employees.

The Employer filed a Request for Review on April 10, 2003, which was granted by the Board on April 24, 2003. On April 23, 2003, an election was conducted. The ballots of the alleged supervisors were challenged and all the ballots were impounded. By Order dated September 30, 2006, the Board remanded this proceeding to me for further processing

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<sup>1</sup> The six employees were: John Vigh, first shift extrusion supervisor; Andrew Monaco, second shift extrusion supervisor; Manuel Torres, third shift extrusion supervisor; Dan Yates, printing supervisor; Paul Bloomfield, warehouse supervisor; and Geoff Neumaier, quality control supervisor. Vigh has since been replaced by Isaiah Young and Monaco has been replaced by Oscar Castro.

consistent with its decisions in *Oakwood Healthcare, Inc.*, 348 NLRB No. 37 (2006); *Golden Crest Healthcare Center*, 348 NLRB No. 39 (2006); and *Croft Metals, Inc.*, 348 NLRB No. 38 (2006). The Board also ordered that the record be reopened, if necessary.

Pursuant to the Board's remand order, a supplemental hearing was conducted on December 20, 2006 and January 9, 2007. In this supplemental proceeding, the Employer called current Plant Manager Bruce Gerritsen to testify and the Petitioner called printing supervisor Daniel Yeats to testify.<sup>2</sup>

The parties stipulated at hearing that Warehouse Supervisor Paul Bloomfield was not a supervisor and that Quality Control Supervisor Geoffrey Neumeyer was a supervisor within the meaning of the Act at the time of the election. These stipulations are hereby accepted and these ballots will be processed accordingly.

With respect to the four remaining individuals alleged to be supervisors, I have based my conclusions in this Supplemental Decision on the authority they possessed and exercised on or before the date of the election, April 23, 2003.<sup>3</sup> Although the ballots were impounded, the representation status of the Union will be determined based upon the Unit's numerical composition at the time of the election. As in any election, the vote of an eligible employee is not voided if he or she is later assigned supervisory responsibilities and removed from the Unit. Therefore, the status of the alleged supervisors shall be determined as of the date of the

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<sup>2</sup> In the original hearing, the Employer called as witnesses then Plant Manager Brian Keenan and Comptroller William D'Addato. At the time, Gerritsen was the Production Manager, to whom the printing and extrusion supervisors reported. The Petitioner called, among other witnesses, supervisors John Vigh and Daniel Yeats. Vigh has since been promoted to the position of Production Manager, formerly held by Gerritsen.

<sup>3</sup> The past tense is used herein to describe facts, events and the authority that the alleged supervisors possessed on or before April 23, 2003, unless specifically stated otherwise.

election and their ballots processed accordingly. *Dean & Deluca New York, Inc.*, 338 NLRB 1046 (2003); *Arlington Masonry Supply, Inc.*, 339 NLRB 817 (2003).

Further, in this Supplemental Decision, I address only whether the four individuals at issue possessed supervisory authority to assign or responsibly direct employees using independent judgment as those terms are defined in the *Oakwood* trilogy. The Board's remand was limited to a substantive evaluation of the record in light of the *Oakwood* decisions, and no other issues that were raised during the original proceeding were affected by that analysis. Therefore, I do not address any ostensible authority of the alleged supervisors to hire, fire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or to effectively recommend any such action which arose after the election. *Dean & Deluca New York, Inc.*, above; *Arlington Masonry Supply, Inc.*, above. Likewise, I do not address the appropriateness of the inclusion of Quality Control employees in the Unit.<sup>4</sup>

Accordingly, having defined the temporal and substance scope of this proceeding, I considered the evidence and analyzed the pre-election authority of the production supervisors to assign and responsibly direct work using independent judgment under *Oakwood*.<sup>5</sup> As discussed below and in agreement with the Petitioner, as well as consistent with the determination I made in my prior Decision, I conclude that the Employer failed to establish

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<sup>4</sup> On January 29, 2007, the Petitioner filed a "Motion for Clarification" to clarify whether the appropriateness of including quality control employees in the Unit is still before the Board. The Employer has requested a postponement of the Region's proceedings in order to file a response to the Petitioner's Motion. Although the Employer, in its request for review, contested my finding that quality control employees should be included in the Unit, the Board did not overturn this finding or remand it. Therefore, the Unit issue is not before me. Accordingly, I decline to entertain the Petitioner's Motion for Clarification or the Employer's request to file a response thereto.

<sup>5</sup> Both parties submitted briefs that were received by the Region after the deadline had expired for filing. There being no prejudice to either party by their mutual failure to timely file a brief, I have carefully reviewed and considered both submissions.

the supervisory status of printing and extrusion supervisors, and I shall include them in the Unit. The facts as described in my original Decision will not be repeated here nor are any findings disturbed unless specifically described below.

## **II. FACTS AND ANALYSES:**

### **1. *Legal Framework***

Section 2(11) of the Act sets forth a three-part test for determining whether an individual is a supervisor. Pursuant to this test, employees are statutory supervisors if: (1) they hold the authority to engage in any one of the 12 supervisory functions listed in Section 2(11); (2) their exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment; and (3) their authority is held in the interest of the employer. See *NLRB v. Kentucky River Community Care, Inc.*, above at 712-713; *NLRB v. Health Care & Retirement Corp. of America*, 511 U.S. 571, 573-574 (1994).

In applying this three part test, certain basic principles remain unaffected by the Board's recent decisions on statutory status. First, the party alleging that an individual is a supervisor has the burden of proof. *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 712 (2001). Second, any lack of evidence in the record is construed against the party asserting supervisory status. *Elmhurst Extended Care Facilities, Inc.*, 329 NLRB 535, 536 fn. 8 (1999). Third, purely conclusionary evidence is not sufficient to establish supervisory status. *Volair Contractors, Inc.*, 341 NLRB 673, 675 (2004); *Sears, Roebuck & Co.*, 304 NLRB 193, 194 (1991). Finally, "the Board . . . exercise[s] caution 'not to construe supervisory status too broadly because the employee who is deemed a supervisor is denied rights which the Act is intended to protect.'" *Oakwood Healthcare*, 348 NLRB No. 37, slip op. at 3 (quoting *Chevron Shipping Co.*, 317 NLRB at 380-381).

The Board's *Oakwood* trilogy decisions clarified the circumstances in which it will find that individuals exercise sufficient discretion in performing two of the supervisory functions listed in Section 2(11) – assignment and responsible direction of work. In addition to defining critical terms, the Board concluded that assignment and responsible direction must have “a material effect on the employee’s terms and conditions of employment” in order to confer supervisory status. *Id.* slip op. at 10.

In *Oakwood*, the Board construed the term “assign” as “the act of designating an employee to a place (such as a location, department or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks, to an employee.” 348 NLRB No. 37, slip op. at 4. To “assign,” for purposes of Section 2(11), “refers to the . . . designation of significant overall duties to an employee, not to the . . . ad hoc instruction that the employee perform a discrete task.” *Id.* slip op. at 4.

In *Oakwood*, the Board explained “responsible direction” as follows: “If a person on the shop floor has men under him, and if that person decides what job shall be undertaken next or who shall do it, that person is a supervisor, provided that the direction is both ‘responsible’. . . and carried out with independent judgment.” *Id.* slip op. at 6 (internal quotations omitted). “Responsible direction,” in contrast to “assignment,” can involve the delegation of discrete tasks as opposed to overall duties. *Oakwood*, above, slip op. at 5-6. An individual will be found to have the authority to responsibly direct other employees only if the individual is *accountable* for the performance of the tasks by those employees. Accountability means that the employer has delegated to the putative supervisor the authority to direct the work and the authority to take corrective action if necessary, and the putative

supervisor faces the prospect of adverse consequences if the employees under his or her command fail to perform their tasks correctly. *Id.*, slip op. at 7.

Assignment or responsible direction will produce a finding of supervisory status only if the exercise of independent judgment is involved. Independent judgment will be found where the alleged supervisor acts free from the control of others, is required to form an opinion by discerning and comparing data, and makes a decision not dictated by circumstances or company policy. *Id.*, slip op. at 8. Independent judgment requires that the decision “rise above the merely routine or clerical.” *Ibid.*

## **2. Assignment**

In *Croft Metals, Inc.*, 348 NLRB No. 38, slip op. at 6, the Board applied the *Oakwood* definition as follows in finding that leads do not “assign” work:

[They] do not prepare the posted work schedules for employees, appoint employees to the production lines, departments, shifts, or any overtime periods, or give significant overall duties to employees. For the most part, the lead persons work along side their regular line or crew members who perform, consistent with their classifications, the same task or job on the line or in their department every day. If a regular employee is absent, the lead persons have no choice or flexibility concerning the personnel, if any, assigned to them, nor do they control whether or for how long the replacement will remain. Frequently, the lead persons themselves just fill in to pick up the slack. ... The record does reflect that the lead persons sometimes switch tasks among employees assigned to their line or department in order to finish projects or achieve production goals, but the frequency with which that occurs is not shown. Moreover, the record is largely devoid of testimony concerning the factors, if any, taken into account by the leads in reallocating work in such circumstances. In any event, the occasional switching of tasks by the lead persons here does not ... constitute the “designation of significant overall duties . . . to an employee.” *Id.* slip op. at 4.

I find that the Board’s application of *Oakwood* in *Croft Metals* is consistent with the instant case and controlling.

As indicated in my original decision, supervisors spend 75-80% of their time doing production work alongside rank and file operators. In fact, Yeats was the only printer capable of operating the “flexo line,” one of four machines in the printing department. Supervisors worked for an hourly wage that was not much higher than that of the people they supervise and their benefits and working conditions were the same. The employees’ work was scheduled and prioritized by a customer service employee and management, after consultations with customers, and then passed on to the supervisors. When Keenan was hired as Plant Manager in about late-January 2003, he began holding daily meetings at which the supervisors were called in to report on production problems. However, management continued to prepare and issue the printing and production schedules.<sup>6</sup>

Operators were initially hired by management to work on a particular shift, department and production line. Once hired, as discussed below, supervisors were responsible for training new employees on all the machines in their department. However, operators generally developed a proficiency and preference for particular line(s), and were not normally switched to lines on which they were less adept and that they did not prefer.

Nevertheless, supervisors could switch operators between lines as machines were rotated in and out of operation (the Employer operated only seven or eight of 12 lines at one time) or when unanticipated events required it. Thus, the supervisor might be required to assign an employee to cover for an absent employee who was performing a job with an early shipping date, as indicated on the production and printing schedules.<sup>7</sup> According to Gerritsen, supervisors decided who to reassign to what machine based on the speed and

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<sup>6</sup> Yeats ultimately assumed the function of preparing the printing schedule, but that did not occur until 2006.

<sup>7</sup> Vigh testified that a machine had to be shut down because an employee was absent about once per month.

technical ability of each operator (some lines being faster and some more “technical”). Vigh testified that he knew which lines his employees regularly worked on and preferred, and assigned them accordingly. However, most of the time, he simply covered the vacated line himself.

Whether it was due to a personnel shortage, supply shortage or mechanical problem, the Employer, sporadically, had to deviate from the production and printing schedules.<sup>8</sup> Gerritsen testified that, in such circumstances, supervisors could shut down a machine or otherwise alter production without consulting management, as long as the scheduled work was resumed and completed that week. However, Vigh and Yeats testified that they would generally consult a manager before making any significant decisions regarding employee assignments, the shutting down of a machine or other production adjustments.<sup>9</sup>

The Employer contends that supervisors had authority to assign operators outside of their departments, as well as to different lines within their departments. The Employer introduced into evidence an evaluation of extruder John Belfiglio that was dated July 13, 2002, which contains the following comments from supervisor Torres: “John is a good worker. He never refuses any supervisors orders. For example, he is sent to the cutting department or makes another assignment.” Gerritsen testified that Torres took it upon himself to train Belfiglio in cutting because, on Friday nights, when the machines are shut down early, the operators have spare time to do something else. Gerritsen also testified that a supervisor may assign a third shift operator to the mixing department in order to prepare

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<sup>8</sup> Gerritsen testified that this could occur four or five times in one week and then not again for two weeks.

<sup>9</sup> Yeats testified that he normally consulted a manager before switching employees between lines, but could do so if the need was urgent. Vigh testified that he would contact Gerritsen immediately if a problem with staff coverage or a machine might affect production and could not be easily corrected.



batches of compound after the mixers have left for the day. The evidence does not indicate how often supervisors assigned operators to work outside of their departments or whether they normally consulted management before doing so.

As indicated above, the supervisors were responsible for training operators on all the machines within their respective departments. Gerritsen testified that supervisors were responsible for determining the proper time to conduct training, which would normally be when the floor was slow and few production changeovers were anticipated. Supervisors were authorized to train operators themselves or assign another operator to do so. The evidence does not indicate which factors the supervisors considered in deciding who should conduct training or how often a supervisor assigned such training to an employee rather than conduct it himself.

D’Addato, Yeats and Vigh testified that supervisors could, at times, request that employees work overtime to cover for absent employees and authorize such work if an employee accepted it. According to D’Addato, the supervisors did not need to consult with a manager before authorizing overtime “on all occasions.”<sup>10</sup> D’Addato testified that a supervisor may require an operator to work through lunch and this, in turn, could result in overtime if the operator ultimately accumulated sufficient hours by the end of the week.<sup>11</sup>

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<sup>10</sup> Vigh testified that, although he requested and scheduled employees to work overtime, a manager always approved it. Yeats testified that he did not always consult with a manager before authorizing overtime.

<sup>11</sup> In the supplemental hearing, Gerritsen testified that supervisors could assign mandatory overtime without consulting a manager and, although an employee might not be disciplined for refusing one overtime assignment, he/she would be disciplined for refusing overtime repeatedly. The Employer produced no such warnings to employees, and both Yeats and Vigh denied having possessed any such authority to assign mandatory overtime. The Employer introduced into evidence an evaluation of Yeats that reads, in part, “there were too many O/T. [sic] which just stay 15 to 30 min.” Yeats explained that this comment referred to instances when employees engaged in casual conversations at the end of their shifts rather than punching out in a timely manner, thus allowing them to receive overtime without need or authorization.

The Employer contends that supervisors had the authority to send employees home early without pay for serious misconduct. Yeats testified that he was authorized to send an employee home who engaged in such serious misconduct as purposely sabotaging a machine or hitting another employee. However, the evidence does not reflect that Yeats ever exercised any such authority. The Employer introduced into evidence one written warning, dated July 16, 1999, which states that Monaco sent an employee home from work after he engaged in misconduct. The record does not disclose the details of the employee's misconduct, nor is it clear that Monaco acted independently of management in sending the employee home.

Until Keenan was hired as Plant Manager in about January 2003, supervisors did not sign employee leave request forms or otherwise indicate their approval of leave which would trigger the need to find coverage for such an absent employee. Rather, the forms were sent to Gerritsen for initial consideration and then Kabumoto for final approval. After Keenan was hired, he directed Yeats to sign off on two leave request forms during Garritsen's absence, thereby indicating that the department could cover for those two employees while they were absent. Yeats did so and the forms were submitted to Kabumoto for final approval. The evidence does not indicate what factors Kabumoto considered in making his decisions to approve or disapprove these requests.

Based upon the foregoing, I find the record insufficient to establish that the responsibilities of the printing and extrusion supervisors meet the *Oakwood* definition of "assign." As in *Croft Metals*, the supervisors did "not prepare the posted work schedules for employees, appoint employees to the production lines, departments, shifts or overtime periods, or give significant overall duties to employees." 348 NLRB No. 38, slip op. at 5.

Management hired operators to work for a particular department, shift and line, and employees generally worked the same line or lines at which they were most adept and preferred. When a department was unexpectedly short handed or an employee had to be trained, supervisors often provided the coverage and conducted the training themselves. As in *Croft Metals*, the “sporadic rotation” of operators between lines and tasks with which they have developed a particularly familiarity more resembles “ad hoc instruction that the employee perform a discrete task” than the “designation of significant overall duties.”

The preponderance of the evidence also failed to establish that supervisors possessed the authority to “assign” work by requiring employees to perform involuntary overtime. Rather, supervisors merely requested that employees perform voluntary overtime. In *Golden Crest Healthcare Center*, the Board affirmed the long-standing principle “that the party seeking to establish supervisory authority must show that the putative supervisor has the ability to *require* that a certain action be taken; supervisory authority is not established where the putative supervisor has the authority merely to *request* that a certain action be taken.” 348 NLRB No. 39, slip op. at 3. Further, even though supervisors unilaterally authorized some voluntary overtime, they often, if not always, consulted and obtained approval for overtime from managers. The evidence, having failed to establish that supervisors required employees to work mandatory overtime or regularly authorized voluntary overtime, is insufficient to establish that supervisors “assigned” overtime as defined by *Oakwood*.

Likewise, the evidence does not establish that supervisors “assigned” work as a result of authorizing leave requests or sending employees home early. Leave requests were processed by Gerritsen and Kabumoto. That Yeats, shortly before the election, signed two leave requests in Gerritsen’s absence does not establish that he or the extrusion supervisors

possessed authority to assign time off within the meaning of Section 2(11) of the Act on a regular basis. Likewise, a single instance in which Monaco sent an employee home early, the details of which are ambiguous, is insufficient to confer supervisory authority.<sup>12</sup>

### **3. *Responsible Direction***

In *Croft Metals, Inc.*, 348 NLRB No. 38, slip op. at 6, the Board applied the *Oakwood* definition as follows in finding that leads “direct” employees:

As part of their duties, the lead persons are required to manage their assigned teams, to correct improper performance, move employees when necessary to do different tasks, and to make decisions about the order in which work is to be performed, all to achieve management-targeted production goals. Lead persons instruct employees how to perform jobs properly, and tell employees what to load first on a truck or what jobs to run first on a line to ensure that orders are filled and production completed in a timely manner.

In *Golden Crest Healthcare Center*, 348 NLRB No. 39, slip op. at 4, the Board applied the *Oakwood* definition as follows in finding that leads “direct” employees:

The record shows that charge nurses oversee the CNAs’ job performance and act to correct the CNAs when they are not providing adequate care. For instance, a charge nurse will correct a CNA if she perceives that the CNA is not using proper procedures in giving a resident a bath. The record also establishes that charge nurses will direct the CNAs to perform certain tasks when the charge nurse determines that such tasks are necessary. For instance, the charge nurses will direct CNAs to clip residents’ toe-nails and fingernails, to empty catheters, or to change an incontinent resident.

Although I find that supervisors responsibly directed work as defined in *Oakwood* and its companion cases, I have concluded that the supervisors at issue here did not utilize independent judgment in doing so.

With respect to “direction,” the supervisors conducted the initial training of operators and instructed employees in the proper performance of tasks when the employees were

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<sup>12</sup> Although Yeats testified that he could send an employee home who had sabotaged a machine or hit another employee, the record contains no evidence that this ever occurred or that his testimony was anything but speculative.

having difficulty with them. Supervisors were also charged with ensuring that operators maintained proper safety procedures, cleanliness and work hours. Further, as discussed above, supervisors sometimes directed and assigned operators to work on different lines and departments in order to meet production deadlines and shipping dates. Based upon these responsibilities, I find that supervisors “directed” employees as defined in *Oakwood*.

I further find that supervisors were “accountable” for enforcing the directions that they administered. In that regard, the evidence established that supervisors verbally corrected employees, with the reasonable expectation that the employee would either obey or be subject to discipline or some other adverse consequence.<sup>13</sup> Thus, supervisors were charged with reporting employee deficiencies to management for consideration in connection with employee evaluations and disciplinary action. The record also revealed that supervisors have prepared written warning notices that were ultimately issued to employees.<sup>14</sup> However, in this regard, there is no evidence that supervisors had the independent authority to issue such warnings or whether they served as mere conduits in this function.

The supervisors were also “held accountable” for the tasks and conduct of employees that they were responsible for directing. The job descriptions of printing and extrusion supervisors indicate that they are “responsible for the work effort and the appraisal of

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<sup>13</sup> Although the evidence does not indicate that supervisors verbally warned employees that continued misconduct would result in further or formal discipline, the record contains written warnings that refer to employees’ past failures to obey their supervisors’ instructions.

<sup>14</sup> In *Croft Metals*, the Board found the evidence too equivocal to establish that lead persons possessed the independent authority to discipline or to effectively recommend discipline of employees within the meaning of Section 2(11). 348 NLRB No. 38, slip op. at 6. In my original Decision, I found the same to be true of the “supervisors” at issue here. Nevertheless, in *Croft Metals*, the Board found that the leads corrected improper performance for purposes of establishing “accountability” by taking such corrective action as verbally warning employees and escorting non-compliant employees to the company’s personnel office or higher plant supervisors. I find that the corrective action taken by supervisors here displays at least an equal degree of accountability as that of the leads in *Croft Metals*, even though the supervisors did not exercise independent disciplinary authority within the meaning of Section 2(11).

personnel.” The evaluations that supervisors received were also based largely upon their ability to correct and control the conduct of employees in such areas as performance, safety practices, cleanliness, attendance and the like. In addition, the record contains a written warning that was issued to extrusion supervisor Monaco for failing “to keep a closer eye on quality related issues especially concerning new co-workers.” Accordingly, I find that supervisors were held accountable for the performance of tasks by employees and, having concluded that supervisors were accountable for taking corrective action to have their decisions enforced, I further find that supervisors direct work “responsibly.”

The remaining question is whether the Employer has carried its burden of proving that supervisors’ responsible direction of employees is exercised with independent judgment and involves a degree of discretion that rises above the “routine and clerical.” I find the evidence insufficient to establish this element of supervisory status. As I found in my original Decision and consistent with *Croft Metals*, the operators worked independently on their regular daily lines without seeking extensive technical guidance, instruction or advice from the supervisors.

The record also contains no significant evidence regarding discretionary factors that had to be weighed and balanced by the supervisors in making production decisions and directing employees. Thus, although supervisors were required to enforce various workplace standards, the evidence does not indicate that supervisors had discretion to adjust or forgo those standards and thereby materially affect the conditions of employment of Unit employees. There is also no evidence that the supervisors set or initiated workplace standards at their own discretion. Rather, it appears that supervisors enforce existing standards and apply their technical expertise as needed. For example Yeats testified that he

instructed an operator to use a certain wrench rather than a pipe in adjusting bolts on a machine. This type of instruction was based on experience and technical expertise rather than being based on independent judgment factors. Further, although supervisors were required at times to prioritize and reassign work to meet the most immediate shipping dates, the shipping dates were determined and reduced to written schedules by management. Supervisors had no discretion over the shipping dates and, therefore, no discretion over the priority of work. Further, as indicated above, employees generally perform the same jobs or repetitive tasks on a regular basis and once trained require minimal guidance. To the extent that supervisors responsibly direct employees there is scant evidence on this record that this direction involves judgments which rise above the type the Board has characterized as routine. *Croft Metals, above*, slip. op. at 6. Accordingly, I reaffirm my finding that the responsible direction of these “supervisors” amounts to no more than “routine, clerical, perfunctory or sporadic” acts that do not involve independent judgment. *Chicago Metallic Corp.*, 273 NLRB 1677, 1689 (1985); *Biewer Wisconsin Saw Mill*, 312 NLRB 506 (1998).

Based upon the foregoing and the record as a whole, I find that the four employees denoted by the Employer as printing and extrusion supervisors do not possess sufficient supervisory indicia to qualify them as such under the Act. I will therefore include those employees in the petitioned for production and maintenance Unit and process their impounded ballots accordingly.

### **III. DIRECTION OF OPENING IMPOUNDED BALLOTS:**

It is hereby directed that at a time and place to be determined by the undersigned, the ballots previously impounded will be opened and counted in accordance with the

determinations made herein. Thereafter, a Tally of Ballots will issue describing the results of the election.

#### **IV. RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by **February 21, 2007**.

Signed at Newark, New Jersey this 7<sup>th</sup> day of February, 2007.

/s/Gary T. Kendellen

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Gary T. Kendellen  
Regional Director  
National Labor Relations Board  
Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102-3110